

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

PLASMA PHYSICS CORPORATION,)	
)	
Plaintiff,)	Civil Action
)	No. 00-4564 (LDW/WDW)
v.)	
)	
OKI ELECTRIC INDUSTRY COMPANY, LTD.,)	
and OKI AMERICA, INC.,)	
)	
Defendants.)	

**REPLY OF PLASMA PHYSICS TO
COUNTERCLAIMS OF OKI AMERICA, INC.**

Plaintiff Plasma Physics Corporation (“Plasma Physics”), for its Reply to the counterclaims of defendant Oki America, Inc. (“Oki”) in the above captioned matter, states the following:

1. Upon information and belief, Plasma Physics admits the averments of paragraph 1 of Oki’s counterclaims.
2. Plasma Physics admits the averments of paragraph 2 of Oki’s counterclaims.
3. In response to paragraph 3 of Oki’s counterclaims, Plasma Physics admits that Oki purports to base its declaratory judgment action on the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-202. Plasma Physics denies that Oki’s declaratory judgment action is meritorious.

4. In response to paragraph 4 of Oki's counterclaims, Plasma Physics admits that this Court has jurisdiction over the subject matter of Oki's counterclaims pursuant to 28 U.S.C. § 2201 as to issues of validity and infringement, but denies that there is subject matter jurisdiction over the issue of unenforceability, which Oki has not properly plead. Plasma Physics denies that Oki's declaratory judgment counterclaims are meritorious.

5. With respect to the averments in paragraph 5 of Oki's counterclaims, Plasma Physics admits that venue is proper under 28 U.S.C. § 1391.

6. Plasma Physics incorporates by reference its responses to the averments of paragraphs 1-5 of Oki's counterclaims, which are incorporated by reference into paragraph 6 of Oki's counterclaims.

7. Plasma Physics admits the averment of paragraph 7 of Oki's counterclaim.

8. Plasma Physics admits the averment of paragraph 8 of Oki's counterclaim.

9. Plasma Physics admits the averment of paragraph 9 of Oki's counterclaim.

10. Plasma Physics denies the averment of paragraph 10 of Oki's counterclaim.

11. Plasma Physics denies the averment of paragraph 11 of Oki's counterclaim.

12. In response to paragraph 12 of the counterclaim, Plasma Physics admits that an actual controversy exists between Oki and Plasma Physics as to the validity and infringement of the '897 patent. Plasma Physics denies that an actual controversy exists between Oki and Plasma Physics as to the unenforceability of the '897 patent and affirmatively avers that Oki does not properly plead its averments as to unenforceability of the '897 patent and therefore fails to state a claim for unenforceability upon which relief may be granted.

13. Plasma Physics incorporates by reference its responses to the averments of paragraphs 1-5 of Oki's counterclaims, which are incorporated by reference into paragraph 13 of Oki's counterclaims.

14. Plasma Physics admits the averment of paragraph 14 of Oki's counterclaim.

15. Plasma Physics admits the averment of paragraph 15 of Oki's counterclaim.

16. Plasma Physics admits the averment of paragraph 16 of Oki's counterclaim.

17. Plasma Physics denies the averment of paragraph 17 of Oki's counterclaim.

18. Plasma Physics denies the averment of paragraph 18 of Oki's counterclaim.

19. In response to paragraph 19 of Oki's counterclaims, Plasma Physics admits that an actual controversy exists between Oki and Plasma Physics as to the validity and infringement of the '784 patent. Plasma Physics denies that an actual controversy exists between Oki and Plasma Physics as to the unenforceability of the '784 patent and affirmatively avers that Oki does not properly plead its averments as to unenforceability of the '784 patent and therefore fails to state a claim for unenforceability upon which relief may be granted.

REPLY TO PRAYER FOR RELIEF AND JUDGMENT

20. With respect to Oki's prayer for relief, Plasma Physics denies that Oki is entitled to the relief prayed for in Paragraphs i through vi of the prayer for relief, or any other relief.

PLAINTIFF'S DEFENSES

21. Oki's counterclaims fail to state a claim upon which relief can be granted.

22. The '897 and '784 patents are not invalid and are enforceable.

23. Defendant Oki has infringed and/or induced infringement of one or more claims of the '897 and '784 patents as set forth in paragraph 7 of the Complaint.

WHEREFORE, plaintiff/counterclaim defendant prays for judgment and relief as set forth in its Complaint, together with dismissal with prejudice of Oki's counterclaims.

Dated: August 21, 2000

HERBERT F. SCHWARTZ (HS2599)

PATRICIA A. MARTONE (PM2989)

ERIC R. HUBBARD (EH9798)

FISH & NEAVE

1251 Avenue of the Americas

New York, New York 10020

(212) 596-9000

EDWARD F. MULLOWNEY (EM0673)

MARK D. ROWLAND (MR8361)

FISH & NEAVE

525 University Avenue

Palo Alto, California 94301

(415) 617-4000

Attorneys for Plaintiff,

Plasma Physics Corporation